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# NATIONAL ENERGY BOARD

## REASONS FOR DECISION

In the Matter of the Application Under  
Part IV of the National Energy Board Act

of

Cochin Pipe Lines Ltd.

Phase I

September 1980



National Energy Board

In the Matter of the National Energy Board Act and the Regulations thereunder, and

In the matter of an application by Cochin Pipe Lines Ltd. (hereinafter called "the Applicant") for certain orders ("orders") to be made and issued pursuant to Part IV of the National Energy Board Act, filed with the Board under File No. 17620, dated

dated at Ottawa, Ontario, September 1980,

before C.G. Sage, Presiding Member

REASONS FOR DECISION

In the Matter of the Application Under  
Part IV of the National Energy Board Act

of

Cochin Pipe Lines Ltd.

Phase I

September 1980

Interprovincial Pipe Line Limited

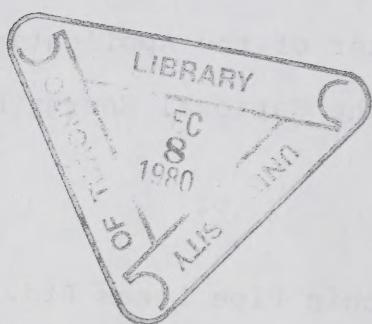
Trans-Canada Pipe Lines Limited

TransNorthern Pipe Line Company

Interprovincial Pipe Line Limited

National Energy Board

Ce rapport est publié  
séparément dans les  
deux langues officielles.



(i)

National Energy Board

IN THE MATTER OF the National Energy Board Act and  
the Regulations made thereunder, and

IN THE MATTER OF an application by Cochin Pipe Lines Ltd. (hereinafter called "the Applicant") for certain orders respecting tolls and tariffs pursuant to Part IV of the National Energy Board Act, filed with the Board under File No. 1762-C18-1.

HEARD at Ottawa, Ontario on 23, 24 and 25 September 1980.

Before:      C.G. Edge                                  Presiding Member  
                  J.R. Jenkins                                Member  
                  R.B. Horner                                Member

Appearances:

R.C. Muir	)	Cochin Pipe Lines Ltd.
C.E. Crawford	)	
F.R. Foran	)	A.G. Pipe Lines (Canada) Ltd.
J. Sutherland	)	Nova, An Alberta Corporation
M.A. Putnam	)	Alberta Natural Gas Company Ltd.
R.G. Pepper	)	
J.J. Marshall	)	Canadian Petroleum Association
H.A. Fergusson	)	Dow Chemical of Canada, Limited
A.I. Ilnyckyj	)	Hudson's Bay Oil and Gas
R.M. Perrin	)	Company Limited
E. Ryan	)	Imperial Oil Limited
E.A. Abssy	)	
R.P. Smith	)	Interprovincial Pipe Line Limited
G.H. Robichon	)	Trans-Northern Pipe Line Company
J. Lang	)	
J.M. Murray	)	TransCanada PipeLines Limited
K.J. MacDonald	)	National Energy Board
S.K. Fraser	)	



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In its Order No. 22-9-80, the National Energy Board ("the Board") received the Cocklin application for licensing commencing on 23 December, 1980. The hearing was divided into two phases, as follows:

- (i) the methodology of regulation (including, inter alia,
  - (a) the use of the direct capital structure for rate-making purposes in the circumstances of a pipeline owned as undivided joint interests;
  - (b) the nature of depreciation for rate-making purposes;
  - (c) the use of the cost-depreciation rate base;
  - (d) the rate-of-return philosophy; and
  - (e) the tax calculation methodology (flow-through versus recast) including the use of the direct capital structure);
- (ii) the making of just and reasonable rates and terms in accordance with the principles set out in Phase I.

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APPLICATION

Cochin Pipe Lines Ltd. ("Cochin") filed an application dated 25 June 1980, under Part IV of the National Energy Board Act for orders fixing the just and reasonable tolls that Cochin may charge for, or in respect of, the transportation of ethane, ethylene and propane, and for such other order or orders as will enable Cochin to file a tariff containing tolls which are just and reasonable.

By Order No. RH-5-80, the National Energy Board ("the Board") set down the Cochin application for hearing commencing on 23 September, 1980. The hearing was divided into two phases, as follows:

1. the methodology of regulation including, inter alia,
  - (a) the use of the deemed capital structure for rate-making purposes in the circumstances of a pipeline owned in undivided joint interest,
  - (b) the deferral of depreciation for rate-making purposes,
  - (c) the use of the semi-depreciated rate base,
  - (d) the rate-of-return methodology, and
  - (e) the tax calculation methodology (flow-through versus normalized) including the use of the deemed capital structure;
2. the fixing of just and reasonable tolls and tariffs in accordance with the principles determined in Phase I.



The hearing on Phase I was completed on 25 September 1980.

The Board received a total of ten interventions in the hearing with only one intervenor, the Canadian Petroleum Association ("CPA"), participating by way of cross-examination, and with no intervenors leading evidence.



EVIDENCE OF APPLICANT

Witnesses on behalf of Cochin stated a number of reasons why the methodology of regulation proposed by them was appropriate for the pipeline. With the exception of the Windsor-to-Sarnia section, the pipeline is owned in undivided joint interest by five different companies. The pipeline is a commercial entity operated mainly as an LPG products pipeline being part of a much larger integrated petrochemical project. The shipping agreements for ethane and ethylene set forth a methodology of regulation which was negotiated by the shipper-owners. This methodology reflects the requirements of the shipper-owners for low tariffs in the early years and higher tariffs in later years.

The witnesses on behalf of Cochin stated that the pipeline does not enjoy a monopoly position and, further, it does not have the ability to pass on costs to the public. Although there may be some upstream effects on the non-owner shippers of propane, it was submitted by Cochin, and evidence was led to establish, that these shippers are in a much better position financially by shipping through the Cochin pipeline than shipping by rail, its main competition.

It was stated in evidence that approximately two-thirds of the Cochin pipeline system is situated within the United States where the tariffs are based on a system similar to that proposed for the Canadian section. However, it was noted that



the manner in which the Federal Energy Regulatory Commission will approach the regulation of products pipelines is at this time an unresolved question.

No intervenor, except for the CPA, objected by evidence introduced at the hearing or through argument, to the method of calculating taxes under the Cochin proposal. CPA, while agreeing that taxes should be computed on a flow-through basis, disagreed with the method for determining the tax rate. CPA argued that the composite tax rate of each of the joint owners should be taken into account when determining income tax for rate-making purposes. The witnesses on behalf of Cochin objected to the CPA proposal and stated that it would be unfair to the undivided joint interest owners.



VIEWS OF THE BOARD AND DECISION

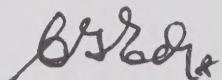
It is the view of the Board that the Cochin pipeline is a unique operation and, based on the evidence and argument presented at the hearing, the Board is prepared to accept the methodology of regulation proposed by Cochin as being appropriate in the particular circumstances of this case.

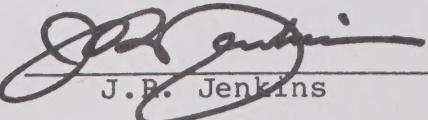
In the view of the Board, the methodology proposed by Cochin with respect to the calculation of flow-through taxes at a deemed 48 per cent tax rate is more appropriate than the CPA alternative of using a composite of the actual tax rates of the joint owners.

The Board accepts in principle the monitoring approach suggested by Cochin and CPA but would request that Cochin make a more specific proposal thereon in Phase II of the hearing.

On the basis of evidence and argument, the Board accepts the methodology proposed by Cochin with the observation that circumstances in the future may warrant a reconsideration of the methodology.

The foregoing constitutes the Board's Decision and Reasons for Decision in Phase I of this matter.

  
C.G. Edge

  
J.P. Jenkins

  
R.B. Horner

PLATES OF THE BOARD AND DECISION

in accordance with the law of the State and County districts  
and members who serve on the Board of Education as  
members of the Board, the Board is required to keep  
copies of its resolutions, bylaws or policies as  
appropriate to the particular circumstances of the case.  
In the view of the Board, the responsibilities of  
County will be to the education of the local community rather than  
to be responsible for the administration of CEA  
specifically to limit a committee of the County for the  
specific purpose of carrying out the functions of the CEA.



Reasons for denial of space I to this paper.  
The local board's interpretation of Board's decision has  
been interpreted by the Board as follows:

R. G. D. B.  
REASONS FOR DENIAL OF SPACE I TO THIS PAPER

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